

Law Offices of

**DONALD L. MIERS, JR.**  
**A PROFESSIONAL LAW CORPORATION**

1930 Florida Avenue, S W  
Denham Springs, Louisiana 70726-4911  
Telephone (225) 664-9500  
Fax no (225) 664-2117



September 11, 2008

223581

**VIA FEDERAL EXPRESS**

Ms Anne K Quinlan  
Acting Secretary  
Surface Transportation Board  
395 E Street, SW  
Washington, DC 20024

**ENTERED**  
**Office of Proceedings**

**SEP 12 2008**

**Part of**  
**Public Record**

RE: Ashbro, Inc v Misuri Associates, Limited Partnership,  
Adell Compounding, Inc, Canadian National Railway,  
and Bercen, Inc , FD No 35171

Dear Secretary Quinlan

Bercen, Inc. ("Bercen") has received a copy of the Reply of Illinois Central Railroad Company to Petition for Declaratory Order, Injunctive Relief and Damages dated August 25, 2008 ("IC Reply") filed in the above referenced proceeding. To the extent that IC's Reply is considered a motion to dismiss (see footnote 2 in the IC Reply), Bercen joins in that motion.

Bercen is a manufacturer of specialty chemicals used in the manufacture of paper. It operates a plant located in Denham Springs, Louisiana. Bercen employs over 50 people with an annual output of over 70 million pounds of product. Bercen is currently expanding its operation by 10-15% along with construction of a new Research & Development facility and corporate offices. IC provides the exclusive rail service to the plant via a spur track that IC calls "the Wilson Spur." Bercen uses IC's rail service to receive inbound carloads of syrup, soy oil and vegetable oil traffic from origins in Illinois, Iowa, and Nebraska. Continued rail service to Bercen's Denham Springs plant is critical to the continued operation and competitiveness of the plant itself. Further, rail service is necessary for Bercen to expand its business into Canada, the upper Midwest and Pacific Northwest as planned.

Ashbro, Inc., which claims to own property adjacent to the Bercen plant, now seeks to have the Board declare, among other things, that IC has no right to use the Wilson Spur, thus terminating the existing rail service that IC provides to Bercen. Bercen filed an Answer to Ashbro's petition on August 21, 2008, and specifically raised as a defense Ashbro's failure to state a claim upon which relief can be granted.

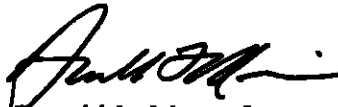
Ms Anne K. Quinlan, Acting Secretary  
Surface Transportation Board  
September 11, 2008  
Page Two

Bercen denies that Ashbro has any interest in the portion of the Wilson Spur utilized by IC to serve Bercen, and also concurs with IC's position that, in any event, there is no statutory or other legal basis for Ashbro to forcibly terminate the rail service provided by IC over the Wilson Spur. Such action would be inconsistent with the public interest in adequate rail transportation for shippers like Bercen, and would deprive Bercen of long-standing rail service necessary for the operation of its plant.

Bercen strongly opposes any result that would prevent IC from continuing to serve its plant at Denham Springs, Louisiana.

Ten copies of this letter are enclosed for filing. Please file the original and return a date stamped copy to us for our records. I hereby certify that I have served all parties of record, as well as all counsel of record in this proceeding with this document by United States mail, postage prepaid on September 11, 2008.

Respectfully submitted,



Donald L. Miers, Jr  
Attorney for Bercen, Inc

DLM, Jr./tt

Enclosures